

AMENDED IN ASSEMBLY JANUARY 7, 2002

AMENDED IN ASSEMBLY MAY 21, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1150

Introduced by Assembly Member Firebaugh

February 23, 2001

~~An act to amend Section 7901 of the Public Utilities Code, relating to telecommunications.—An act to add Section 14666.8 to the Government Code, relating to telecommunications.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1150, as amended, Firebaugh. ~~Telegraph and telephone corporations~~ *State property: access: telecommunications.*

Existing law requires the Director of General Services, with the approval of the state agency concerned, and the Director of Transportation to negotiate in the name of the state, access to state-owned property, including rights-of-way, for those purposes and subject to those conditions, limitations, restrictions, and reservations determined by the director to be in the interest of the state. Existing law provides that this requirement to negotiate access applies to telecommunications and information technologies.

This bill would require the Director of General Services to compile and maintain an inventory of state-owned real property that may be available for lease to providers of wireless telecommunications services for location of wireless facilities. It would authorize the director to enter into an agreement for the lease of state-owned real property to any provider of wireless telecommunications services for location of its

facilities, and would require that this lease, among other things, (1) provide for the use of the wireless provider's facilities located on the state-owned real property by any appropriate state agency if technically, legally, and economically feasible, and (2) facilitate, to the greatest extent possible, agreements among providers of wireless telecommunications services for collocation of their facilities on state-owned real property.

This bill would provide that a wireless telecommunications facility located on state-owned real property pursuant to a lease that meets these requirements would not be subject to the requirements of any local zoning ordinance or regulation.

The bill would require that 10% of the revenues from fees collected pursuant to these provisions be available upon appropriation by the Legislature, to finance digital divide projects.

~~Under existing law, telegraph or telephone corporations may construct lines of telegraph or telephone lines along and upon any public road or highway, along or across any of the waters or lands within the state, and may erect related poles, posts, piers, abutments, and other necessary fixtures of their lines, but may not incommode the public use of the road or highway or interrupt the navigation of the waters.~~

~~This bill would authorize a governmental entity that owns property used by a telecommunications or information technology corporation pursuant to the above provisions to negotiate the purchase, lease, or rent of access to rights-of-way and easements on that property.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 7901 of the Public Utilities Code is~~
- 2 ~~SECTION 1. The Legislature finds and declares all of the~~
- 3 ~~following:~~
- 4 ~~(a) Wireless telecommunications service is a critical part of~~
- 5 ~~California's infrastructure.~~
- 6 ~~(b) The rapid deployment of wireless telecommunications~~
- 7 ~~facilities is critical to ensure network access and quality of service.~~
- 8 ~~(c) It is in the public interest to minimize the number of wireless~~
- 9 ~~telecommunications towers and facilities necessary to support~~
- 10 ~~wireless networks.~~

1 (d) *Use of property owned by the state, local government*
2 *agencies, and other public entities for location of wireless*
3 *telecommunications facilities will expedite deployment of wireless*
4 *telecommunications service and minimize the number of wireless*
5 *telecommunications towers and facilities.*

6 (e) *A certain percentage of people have the best information*
7 *technology that our society has to offer. These people have the most*
8 *powerful computers, the best telephone and fastest Internet*
9 *services, as well as a wealth of content and training relevant to*
10 *their lives. There is another group of people that have very little*
11 *technology or service, if any at all. The difference between these*
12 *two groups is what has been called the "Digital Divide."*

13 (f) *"Falling Through the Net: Toward Digital Divide*
14 *Inclusion," a report published by the United States Department of*
15 *Commerce, determined that although more than half of all*
16 *households have computers and more than half of all Americans*
17 *will be using the Internet by the middle of 2001, a digital divide*
18 *remains or has expanded slightly in some cases.*

19 (g) *Today, a large number of Americans are using the Internet*
20 *to conduct daily activities, including, but not limited to,*
21 *communication, shopping, entertainment, job searches, training,*
22 *and education. To be on the less fortunate side of the digital divide*
23 *means that individuals are not able to participate in world's new*
24 *information-based economy. Even worse is that with the growth of*
25 *the information-based economy, people who lack access to those*
26 *tools are becoming disadvantaged.*

27 (h) *Raising the level of digital access by increasing the number*
28 *of Californians using the technology tools of the digital age is a*
29 *high priority in the State of California.*

30 SEC. 2. *Section 14666.8 is added to the Government Code, to*
31 *read:*

32 14666.8. (a) *The director shall, within 240 days of the*
33 *effective date of this section, compile and maintain an inventory*
34 *of state-owned real property that may be available for lease to*
35 *providers of wireless telecommunications services for location of*
36 *wireless telecommunications facilities. This inventory shall be the*
37 *state's sole inventory of state-owned real property available for*
38 *this purpose.*

39 (b) *The director shall make the inventory available on the*
40 *department's Web site.*

(c) On behalf of the state, the director is authorized to negotiate and enter into an agreement to lease state-owned real property to any provider of wireless telecommunications services for location of its facilities. A lease for this purpose shall do all of the following:

(1) Provide for a reasonable rental fee to be paid to the state.

(2) Designate a lease term that is acceptable to the director.

(3) Provide for the use of the wireless provider's facilities located on the state-owned real property by any appropriate state agency if technically, legally, and economically feasible.

(4) Facilitate, to the greatest extent possible, agreements among providers of wireless telecommunications services for collocation of their facilities on state-owned real property.

(d) A wireless telecommunications facility located on state-owned real property pursuant to a lease that meets the requirements of subdivision (c) shall not be subject to the requirements of any local zoning ordinance or regulation.

(e) The director shall develop and distribute materials for use by local government agencies that encourage these agencies to enter into leases with providers of wireless telecommunications services that facilitate collocation in order to minimize the number of new wireless telecommunications towers.

(f) Of the revenues from fees collected pursuant to this section, 10 percent shall be available, upon appropriation by the Legislature, for the purpose of addressing the state's digital divide. These revenues shall be maintained in a separate fund account to be used only for digital divide projects. The first three pilot projects authorized pursuant to this subdivision shall include the following: one for a city in Orange County, one for a city in southeast Los Angeles County, and one for a city in a northern California bay area county.

~~amended to read:~~

~~7901. (a) Telecommunications companies, including telegraph or telephone, and information technology corporations may construct lines of telegraph or telephone lines along and upon any public road or highway, along or across any of the waters or lands within this state, and may erect poles, posts, piers, or abutments for supporting the insulators, wires, and other necessary fixtures of their lines, in such manner and at such points as not to incommode the public use of the road or highway or interrupt the navigation of the waters.~~

1 ~~(b) It is the intent of the Legislature that a governmental entity~~
2 ~~that owns property used by a telecommunications or information~~
3 ~~technology corporation pursuant to subdivision (a) shall have~~
4 ~~discretion to negotiate with the telecommunications or~~
5 ~~information technology corporation for access to that property. A~~
6 ~~governmental entity may therefore negotiate the purchase, lease,~~
7 ~~or rent of access to rights-of-way and easements on its property for~~
8 ~~purposes of subdivision (a).~~

